

POSITION PAPER

INITIAL MEETING OF THE
UN COMMITTEE ON THE PEACEFUL
USES OF OUTER SPACE

CONFIDENTIAL

March 13, 1962

ANNEX D

DEFINITION OF PEACEFUL USES OF OUTER SPACE
(CONTINGENCY)

THE PROBLEM

There exists a possibility that a neutral or bloc member of the Committee will propose that the Committee, or its Legal Subcommittee, draw up a definition of "peaceful uses" or "peaceful purposes" in the outer space context. One purpose of such a proposal would probably be to have the Committee, and possibly the General Assembly, adopt a resolution restricting the exploration and use of outer space to activities falling within the definition. A further purpose, regardless of the adoption of a resolution, could be to provide a basis for attacks by states upon various outer space activities of other states.

UNITED STATES POSITION

1. The United States opposes as unnecessary and fruitless any attempt to define "peaceful uses" or "peaceful purposes" in the outer space context. Such an effort is unnecessary in view of the unanimous consensus of the organized international community that international law, including the United Nations Charter, applies to state conduct in outer space. It would be fruitless since, apart from the restrictions placed upon state conduct by international law, limitations upon exploration and use beyond the territory of states is subject properly for discussion and action by disarmament bodies, most importantly the Eighteen-Nation Disarmament Committee.
2. A definition of "peaceful purposes" and "peaceful uses" is attached for contingency purposes. It is not to be used in meetings except in the event that the United States is required to take a position in order to try to defeat objectionable definitions.

COMMENT

1. Part A of General Assembly Resolution 1721 (XVI), adopted December 20, 1961, commends to states for their guidance in the exploration and use of outer space the following principles:

- "(a) International law, including the United Nations Charter, applies to outer space and celestial bodies;
- "(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law, and are not subject to national appropriation."

This resolution, adopted unanimously, satisfactorily articulates the basic principles of legal regime for outer space.

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2. The national interest of the United States requires the continuation of our SAMOS and MIDAS programs. These programs are consistent with international law. If necessary, their legality may be enunciated along the following lines:

"...the SAMOS program is directed toward improving satellite capabilities for making observations. MIDAS is being developed to provide a new means of detecting mass launches of intercontinental ballistic missiles. The launching and orbiting of such vehicles is consistent with obligations under international law and the United Nations Charter. Neither SAMOS nor MIDAS constitutes a threat or use of force against any States. Consequently, insofar as General Assembly Resolution 1721 (XVI) recognizes the application of existing law to outer space and celestial bodies, the principle against which we have tested the legality of these programs has been affirmed as correct by the international community."

In this regard, the Delegation should resist any attempt to substitute the terms "non-military" for "peaceful" and "military" for "non-peaceful" in characterizing space activities. The conduct of activities in space by the military does not in itself make them aggressive in character. Under the terms of the United Nations Charter, for example, the use of satellites in meteorology and for communications, navigation, early warning, and observation is entirely permissible.

3. The limitation of the exploration and use of outer space by the imposition of restrictions beyond those flowing from international law is properly a subject of disarmament negotiations. The United States has taken an initiative in the disarmament context by urging in its disarmament proposals of September 25, 1961, that, in the first stage of general and complete disarmament:

(a) the placing into orbit or stationing in outer space of weapons of mass destruction shall be prohibited; and

(b) states shall give advance notification to participating states and to the International Disarmament Organization of launchings of space vehicles and missiles, together with the track of the vehicle. We hope that the United Nations Disarmament Committee will give early attention to this vital subject.

4. The following attachment contains a definition of "peaceful purposes" and "peaceful uses" which is cast in terms of existing international law, specifically Article 2, paragraph 4, of the Charter.

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The adoption of this definition would not jeopardize our SAMOS or MIDAS programs. Representatives of the United Kingdom have seen the definition in draft form and have indicated general assent. We agree with the United Kingdom that this definition should be advanced only if other, troublesome definitions are suggested. In the latter event, we should press strongly for this definition.

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